

**ENTERED**

June 03, 2021

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

DEXTER JOHNSON,

Petitioner,

VS.

BOBBY LUMPKIN,

Respondent.

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CIVIL ACTION NO. 4:19-CV-3047

**ORDER**

In 2019, Petitioner Dexter Darnell Johnson filed an Amended Second or Successive Petition for Writ of Habeas Corpus. (Docket Entry No. 8). The Court has set an evidentiary hearing for August 12, 2021. (Docket Entry No. 30). The Court has granted Johnson's request to depose his trial lawyers, Anthony Osso and Jim Leitner, and his initial federal habeas counsel, Patrick McCann. (Docket Entry No. 28 at 10). The Court has approved a schedule that provides for the parties to begin depositions on June 8, 2021. (Docket Entry No. 32).

On June 2, 2021, Respondent filed an Opposed Motion for Leave to Conduct Discovery seeking material relating to the representation provided by Johnson's prior attorneys. (Docket Entry No. 34). On that same date, Johnson filed an Emergency Motion to Stay Evidentiary Hearing, Associated Depositions, and Associated Deadlines. (Docket Entry No. 35). Johnson argues that Respondent was dilatory in asking for discovery, that the requested discovery cannot be completed before the scheduled depositions, that important questions about attorney/client privilege must be resolved before discovery, and that it would be unduly prejudicial to conduct depositions before the resolution of the discovery dispute.

Respondent opposes a stay. (Docket Entry No. 36). Respondent clarifies that discovery was not intended to be completed before the depositions. Also, Respondent argues that Johnson

will not experience any prejudice should the depositions proceed before the Court rules on the discovery request.

The Court finds that Johnson's motion to stay is well taken. The Court finds that it is reasonable to resolve the discovery motion, and the attendant questions of privilege, before the parties have an opportunity to depose Johnson's prior attorneys. Accordingly, the Court **GRANTS** Johnson's motion to stay. (Docket Entry No. 35). The prior scheduling order is suspended and all established dates are stayed pending this Court's ruling on the motion for discovery.

The Clerk will provide copies of this Order to the parties.

SIGNED on June 3, 2021, at Houston, Texas.

  
— ALFRED H. BENNETT  
UNITED STATES DISTRICT JUDGE